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May 19, 2006

Bill Moore  
Washington State Department of Ecology  
Water Quality Program  
PO Box 47600  
Olympia, WA 98504-7600

SUBJECT: Bellevue's Comments on the February 15, 2006 Final Draft of the National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Western Washington

Dear Mr. Moore:

The City of Bellevue is pleased that Ecology, with this final draft permit, is moving closer to issuance of a NPDES Phase II municipal stormwater permit. We are looking forward to working with you as part of the Association of Washington Cities Team on the final permit between now and permit issuance. We are very excited with the opportunity to help develop an NPDES program that will both meet the goals of the Clean Water Act and the needs of our community.

Over the last 32 years, Bellevue has developed and operated a stormwater management program consistent with achieving Clean Water Act goals. Bellevue's comments focus on making the permit consistent with the Clean Water Act requirements, giving us successful storm and surface water quality water management programs in urban environments.

Below are comments regarding the main issues in the permit needing resolution that Bellevue staff have identified. More detailed suggestions on the above and other issues can be found in attached comments. (Attachment A)

"Maximum Extent Practicable" Compliance Standard

The draft permit needs to be modified to make clear that the Best Management Practices required by the permit meet the compliance standard of "maximum extent practicable (MEP)." It is also necessary to clarify that the federal "MEP" compliance standard equals the State "all known, available and reasonable methods of prevention, control and treatment" (AKART) standard. The wastewater treatment standard per RCW 90.48.520 is inappropriate to storm non-point source pollution and should be removed.

### Forested Predevelopment Condition and Legal Concerns

Language in the permit as drafted inappropriately requires that stormwater flows be mitigated to meet a standard of forested predevelopment conditions regardless of the site's land cover conditions at the time of development.

Additionally, the proposed definition of predevelopment conditions conflicts with the definition in the December 8, 1999 Federal Register publishing of the Phase II Stormwater Final Rule for predevelopment conditions within the context of redevelopment:

“Predevelopment refers to runoff conditions that exist onsite immediately before the planned development activities occur. Predevelopment is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred.”

We are looking forward to having city attorneys work together with the Attorney Generals Office to resolve this issue.

### Monitoring Condition (S8)

Bellevue requests that Ecology form a Stormwater Partnership with Phase I and Phase II jurisdictions, environmental groups, other interested stakeholders and Ecology staff from the Water Quality (NPDES) Program, Environmental Assessment Program, and a policy level staff person that spans internal program divisions. This on-going partnership will be responsible for:

- Coordinating with the State on a stormwater baseline and trend assessment monitoring strategy at a watershed level that would link and coordinate with salmon recovery and Puget Sound Initiative programs.
- Developing and replacing existing monitoring language in Phase I and II permits with language that reflects a monitoring program that would provide:
  - Meaningful management information for improving BMP selection and making other stormwater management decisions
  - Reliable indicators that SWMP actions were making reasonable progress towards desired outcomes
  - Coordination and analysis of information across jurisdictions and agencies through the partnership to reduce redundancies, realize efficiencies, and improve transparency

Bellevue requests Ecology to convene the Partnership as soon as possible to allow timely issuance of the NPDES Municipal stormwater permits. Bellevue offers to assist in convening this partnership.

### WSDOT (PHASE I AND II) GENERAL PERMIT ISSUANCE

The Washington State Department of Transportation's (WSDOT) Phase I (re-issuance) and Phase II (new) combined permit is not on the same public review and issuance schedule as the Phase I municipal re-issuance and new Phase II municipal permits. Runoff from WSDOT right-of-way and facilities can have a significant impact on municipal stormwater systems and/or

receiving waters. Bellevue requests that WSDOT's combined permit be available and on the same public review and issuance schedule as that of Phase I and II permits to ensure consistency and equity with requirements of other Permittees.

Built-In Flexibility vs. One-Size-Fits-All Permit Construct

We support Ecology's option prescribing one set of requirements for Phase II Western Washington permittees. Within this option, Phase II permittees must have the flexibility to develop an individualized storm water program addressing the particular characteristics and needs of its system per the EPA 883-F-011 January 2000 Fact Sheet 2.9. We have made a few suggestions in the attached comments to build in flexibility for local governments to meet the permit requirements.

Please find more detailed suggestions on the attached comments regarding the above and other issues. We look forward to the opportunity to work with you between this comment date and permit issuance to develop specific language to address these issues and develop a permit that will work for all.

Sincerely,

Damon Diessner  
Assistant Director  
Bellevue Utilities

Attachments A-E

cc: Jay Manning, Director, Washington State Department of Ecology  
Lori Riordan, Bellevue City Attorney  
Tom Young, Attorney Generals Office  
Denny Vidmar, Director, Bellevue Utilities